

Message Text

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61

ACTION NEA-10

INFO OCT-01 EUR-12 ISO-00 PM-04 NSC-05 SP-02 SS-15 L-03

H-02 CIAE-00 INR-07 NSAE-00 DEAE-00 SNM-02 DHA-02

/065 W

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R 301335Z OCT 75

FM AMEMBASSY MANAMA BAHRAIN

TO SECSTATE WASHINGTON DC 2548

INFO SECDEF WASHINGTON DC

COMIDEASTFOR

CNO WASHINGTON DC

CINCUSNAVEUR LONDON UK

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E.O. 11652: N/A

TAGS : MAR, BA

SUBJECT : MIDEASTFOR STATUS: JURISDICTION QUESTION

REF : (A) MANAMA 1123

(B) STATE 240682

1. THE EMBASSY RECEIVED A FORMAL DIPLOMATIC NOTE FROM THE GOB ON OCTOBER 14, 1975 ASKING FOR JURISDICTION IN THE CASE DESCRIBED REF A. THE GOB NOTE, HOWEVER, STATES THAT THE TWO SEAMEN ARE CHARGED WITH "OBTAINING, POSSESSING, AND SMOKING HASHISH AT MANAMA" NOT RPT NOT WITH TRAFFICKING IN HASHISH AS WE HAD ORIGINALLY BEEN LED BELIEVE.

2. WE HAVE SPENT THE INTERVENING PERIOD TRYING TO FOCUS THE ATTENTION OF THE GOB ON THE PROBLEMS INVOLVED IN THE GOB AGAIN (AS IN THE JUNE 1975 MACK, VAUGHAN AND HUGHEN CASE-SEE STATE 126818) REQUESTING JURISDICTION IN A NARCOTICS POSSESSION, AS DISTNCT FORM TRAFFICKING, CASE. WE HAVE BEEN FINALLY INFORMED OCTOBER 30 THAT THE GOB EXPECTS A FORMAL REPLY FROM THE USG "FOR THE RECORD". (FYI: FOREIGN MINISTER LIMITED OFFICIAL USE

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AND ACTION OFFICER IN MINISTRY HAVE BOTH INDICATED DESIRE TO

USE OUR RESPONSE AS STICK TO SHAPE UP GOB LAW ENFORCEMENT OFFICIALS IN THEIR PROCESSION OF FUTURE CASES INVOLVING POSSIBLE JURISDICTION OVER U.S. NAVY PERSONNEL. THEY BOTH INFORMALLY INDICATE NO PROBLEM WITH OUR REFUSING JURISDICTION IN THIS CASE. END FYI.)

3. ACCORDINGLY, EMBASSY PROPOSES TO FORWARD A DIPLOMATIC NOTE TO THE GOB ALONG THE FOLLOWING LINES UNLESS INSTRUCTED TO THE CONTRARY:

QTE IN ACCORDANCE WITH THE ARRANGEMENTS OUTLINED IN THE DIPLOMATIC NOTES EXCHANGED BY THE TWO GOVERNMENTS ON JULY 31, 1975, IT IS THE OPINION OF THE UNITED STATES THAT, IN THE ABSENCE OF SPECIAL CIRCUMSTANCES MAKING A CASE PARTICULARLY IMPORTANT TO THE GOVERNMENT OF BAHRAIN, THE CRIMES OF DRUG USE AND POSSESSION, AS DISTINCT FROM DEALING IN DRUGS, CAN BEST BE HANDLED WITHIN THE CRIMINAL JURISDICTION OF THE UNITED STATES BY MEANS OF THE NORMAL DISCIPLINARY PROCEEDINGS OF THE U.S. NAVY. THE UNITED STATES THEREFORE WISHES TO RETAIN JURISDICTION IN THE CASE OF O'ROURKE AND HIRSCH, CHARGED IN BAHRAIN WITH OBTAINING, POSSESSING, AND SMOKING HASHISH CONTRARY TO THE PROVISIONS OF ARTICLES 1, 2, 24 AND PARAGRAPH 1 OF ARTICLE 27 OF LAW NO. 4 OF 1973 CONCERNING THE CONTOL OF TRAFFIC IN NARCOTIC DRUGS.

THE UNITED STATES UNDERSTANDS THE ENUMERATION OF CERTAIN SERIOUS CRIMES IN PARAGRAPH 2A OF THE JULY 31, 1975 NOTE ON CRIMINAL JURISDICTION TO EXCLUDE ALL OTHER CRIMES FROM THE SCOPE OF THE PARAGRAPH'S APPLICATION. THE UNITED STATES FURTHER UNDERSTANDS THE TERM "DRUG TRAFFICKING" IN PARAGRAPH 2 (A) TO INCLUDE AS A NECESSARY ELEMENT THE PASSING OF DRUGS FROM ONE PERSON TO ANOTHER FOR AN EQUIVALENT IN GOODS OR MONEY, AND THAT THEREFORE POSSESSION OF DRUGS FOR PERSONAL USE AND USE ITSELF ARE NOT WITHIN THE TERM.

THE EMBASSY WOULD FURTHER LIKE TO DRAW THE ATTENTION OF THE GOVERNMENT OF BAHRAIN TO THE FACT THAT THE EMBASSY WAS INFORMED OF THE GOVERNMENT OF BAHRAIN'S INTENTION TO CLAIM JURISDICTION IN A NOTE DATED FORTY-ONE DAYS AFTER THE OFFENSE IN QUESTION IS ALLEGED TO HAVE OCCURRED. AS THE MINISTRY IS AWARE, UNDER THE ARRANGEMENTS ESTABLISHED BY THE EXCHANGE OF NOTES MENTIONED ABOVE, THE GOVERNMENT OF BAHRAIN UNDERTAKES AN OBLIGATION TO MAKE EVERY EFFORT TO FORWARD CERTIFICATES LIMITED OFFICIAL USE

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CLAIMING JURISDICTION IN SUCH CASES WITHIN FOURTEEN DAYS OF THE OCCURRENCE OF THE OFFENSE. THE EMBASSY MUST REITERATE THE IMPORTANCE THE UNITED STATES GOVERNMENT ATTACHES TO THIS UNDERTAKING IN THE INTEREST OF THE PROMPT EXERCISE OF JUSTICE AND REQUESTS THAT IN FUTURE CASES EVERY EFFORT BE MADE TO COMPLY WITH THE OBLIGATION TO FORWARD CERTIFICATION WITHIN FOURTEEN DAYS. UNQTE
TWINAM

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Message Attributes

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Copy: SINGLE
Draft Date: 30 OCT 1975
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Decaption Note:
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Disposition Approved on Date:
Disposition Authority: KelleyW0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
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